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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 **-oOo-**
9 UNITED STATES OF AMERICA,)
10 Plaintiff,)
11 vs.) 2:11-cr-119-LDG-RJJ
12 JOSEPH DOMINGUEZ,) **GOVERNMENT'S**
13 Defendant.) **MOTION FOR CONTINUANCE**
14

15 The United States of America, by DANIEL G. BOGDEN, United States Attorney, and
16 PETER S. LEVITT, Assistant United States Attorney, request that this Court enter an order to
17 continue the deadline to respond to defendant Joseph Dominguez's motion under 28 U.S.C. §
18 2255, to vacate, set aside or correct sentence by a person in federal custody. CR 51. Currently, the
19 Government's response is due August 12, 2013. CR 59. The Government asks that the deadline be
20 continued until September 12, 2013 (a 30-day continuance) or, in the alternative, August 26, 2013
21 (a 14-day continuance).

22 **MOTION FOR CONTINUANCE**

23 1. Declarant is an Assistant United States Attorney (AUSA) in the District of
24 Nevada and has been such since August 2004. In January 2008, declarant began work in the
25 Appellate Division of the United States Attorney's Office of the District of Nevada. This requires
26 ongoing legal research and brief-writing for appeals in the Ninth Circuit, as well as responses to
motions under 28 U.S.C. § 2255, such as the present motion.

2. Over the past few weeks, declarant has traveled to San Francisco for oral

1 argument in the Ninth Circuit Court of Appeals (on July 10, 2013), in *United States v. Newson*,
2 CA 12-10224, DC 2:10-cr-71-HDM-PAL. Declarant is currently preparing for two more oral
3 arguments (on September 9, 2013 and October 10, 2013), and writing the Answering Brief in
4 *United States v. Isaacs*, CA 13-10086, DC 2:05-cr-104-RCJ (which is due on August 21, 2013).
5 Declarant also wrote and filed in this Court (on July 29, 2013, CR 203) the response to the motion
6 under 28 U.S.C. §2255 in *United States v. Binns*, 2:11-cr-57-LDG. Declarant also wrote and filed
7 (on August 9, 2013), the status report for the Ninth Circuit in *U.S v. Gibson*, CA 10-10101.
8 Declarant also assisted on the supplemental briefing in *United States v. Raileanu*, 2:13-cr-38-APG
9 (filed August 8, 2013).

10 3. Declarant continues to handle all aspects of the litigation involving sentence
11 reductions based on the March 2008 amendments to the advisory guidelines for cocaine base
12 (Amendment 706), and the November 2011 amendments (Amendment 750).

13 4. This is first request for an extension of time to file the response in opposition to
14 defendant's motion under Section 2255. Granting this extension will permit declarant to respond
15 thoroughly to the issues raised in defendant's motion, including his assertion that "both this Court
16 and the Nevada sentencing court were laboring under the mistaken impression that, at the time of
17 both . . . sentencings, Mr. Dominguez was in the federal custodial jurisdiction." CR 51 at 2
18 (asserting that, due to this "mistaken impression," the state court was not able "to run Mr.
19 Dominguez's sentence concurrent with the instant federal sentence").

20 5. On August 12, 2013, declarant attempted to contact defense counsel, AFPD
21 Monique Kirtley, to determine her position with regard to this motion for a continuance. Declarant
22 left a voice-mail message and contacted Ms. Kirtley's legal assistant. Ms. Kirtley thus reserves the
23 right to oppose the continuance requested in this motion.

24 6. Defendant is currently serving his custodial sentence, with a projected release
25 date of December 17, 2015. *See* www.bop.gov.

WHEREFORE, based on the foregoing, it is respectfully requested that the court enter an order granting this motion and permitting the United States up to and including September 12, 2013 (or, in the alternative, August 26, 2013), to file its response to the defendant's motion under 28 U.S.C. § 2255 (CR 51).

DATED this 12th day of August, 2013.

Respectfully submitted,

DANIEL G. BOGDEN
United States Attorney

/s/
PETER S. LEVITT
Assistant United States Attorney

ORDER

IT IS SO ORDERED.

DATED this 13th day of August, 2013.

Lloyd D. George
Sr. U.S. District Judge

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